

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Criminal Application No.45 of 2006
In
Criminal Appeal No.690 of 2005

Balasaheb Tukaram Bonukshe	Applicant
Vs.	
The State of Maharashtra	Respondent

Mr.Indrajeet Joshi for applicant.
Mr.V.B.Konde-Deshmukh, APP for State.

CORAM: B.H.MARLAPALLE & SMT.R.S.DALVI,JJ.
February 15, 2006.

P.C.

. Heard Mr.Joshi, the learned counsel for the applicant whose Criminal Appeal No.690 of 2005 against the order of conviction and sentence is pending before us and he is praying for furlough leave to attend to the medical treatment of his wife - Sushila. Similar application was made by the applicant to the Competent Authority and in view of the pendency of the appeal he has approached us. The report submitted by the Ajra Police Station in Kolhapur District is not favourable to the applicant and the said police station, based on the enquiries made in the villages concerned, has stated that the applicant should not be released on furlough leave though his wife is required to undergo a surgery. The statement of the applicant's wife recorded on 2-2-2006 has been placed on record and the medical

certificates annexed thereto suggest that she is required to undergo a surgery in a Government hospital at Kolhapur. The sonography report suggests that the wife is suffering from II degree utero-vaginal protopse with cystocele and she has been advised surgery by the Medical Officer, CPR Hospital, Kolhapur. The wife has also pointed out that there is no major member of the family to sign the medical papers before she is operated upon except her mother-in-law who is very old. She, therefore, wants her husband to be with her to sign the medical papers. We have also noted that the applicant has three children i.e. one daughter and two sons who are in the age group of 18 to 14 years.

. The learned counsel for the applicant submitted that he should be released at least for four weeks on furlough leave. We are not convinced that the applicant should be released on furlough leave for four weeks more so because there are other family members capable of looking after Sushila for her post operative care. The applicant's presence is necessary to sign the medical papers and be with the wife when she undergoes an operation. The police report has also expressed an apprehension about the

surety being available to undertake that the applicant shall report to the jail concerned at the end of the furlough leave period.

. Taking into consideration the obtaining circumstances, we allow this application and direct the Competent Authority to release the applicant on furlough leave for a period of one week on the following conditions:

(a) He shall be released about three days prior to the scheduled date of operation;

(b) he shall report to Karvir Police Station, Kolhapur between 3 p.m. to 5 p.m. every day;

(c) on expiry of the furlough period of seven days he shall report to the jail concerned; and

(d) a local surety in the sum of Rs.10,000/- shall also be furnished before the applicant is released on furlough leave.

(SMT.R.S.DALVI,J.)

(B.H.MARLAPALLE,J.)